

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3, California Code of Regulations  
Section 3406(b), Mediterranean Fruit Fly Interior Quarantine  
INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3406(b) is to provide for the State to regulate the movement and possible carriers of Mediterranean fruit fly (Medfly) from the area under quarantine to prevent the artificial spread of the Medfly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that the emergency amendment of Section 3406(b) was necessary is as follows:

Mediterranean fruit fly is a destructive insect pest which attacks the fruit of various plants including over 260 crops such as citrus, tomatoes, grapes, avocados, peaches, and cherries.

The female punctures host fruit to lay eggs which develop into larvae. The punctures admit decay organisms that may cause tissue breakdown. Larval feeding causes breakdown of fruit tissue. Fruits with egg punctures and larval feeding are generally unfit for human consumption. Pupae may be found in fruit, but normally are found in soil.

#### Amendment Effective August 11, 2008

Mediterranean fruit flies were detected in the County of Santa Clara. On September 18, 2007, an adult female Mediterranean fruit fly was taken from a trap in the San Jose area of Santa Clara County. On October 10, 2007, adult female and male Mediterranean fruit flies were taken from traps located at two separate residences in the San Jose area of Santa Clara County. The detection of five adult Mediterranean fruit flies was indicative of an incipient infestation of the fly in the San Jose area of Santa Clara County. The United States Department of Agriculture's Animal and Plant Health Inspection Service also accepts this standard as the trigger for a quarantine response. The Food and Agriculture Organization of the United Nations has a similar international standard established.

This amendment of Section 3406(b) removed the San Jose area of Santa Clara County from the area under quarantine for Mediterranean fruit fly. The fly was declared eradicated from this area on August 4, 2008; therefore, it was no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area effective August 4, 2008.

#### Amendment Effective August 12, 2008

Mediterranean fruit flies were detected in the County of Solano. On September 10, 2007, an adult female and three adult male Mediterranean fruit flies, all sexually mature, were taken from a trap in the Dixon area of Solano County. The detection of four adult Mediterranean fruit flies was indicative of an incipient infestation of the fly in the Dixon area of Solano County. The United States Department of Agriculture's Animal and Plant Health Inspection Service also accepts this standard as the trigger for a quarantine response. The Food and Agriculture Organization of the United Nations has a similar international standard established.

This amendment of Section 3406(b) removed the Dixon area of Solano County from the area under quarantine for Mediterranean fruit fly. The fly was declared eradicated from this

area on August 8, 2008; therefore, it was no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area effective August 8, 2008.

#### Amendment Effective August 13, 2008

Mediterranean fruit flies were detected in Los Angeles County. On October 24, 2007, an adult mated female Mediterranean fruit fly was taken from a trap in the Rancho Palo Verdes area of Los Angeles County. On October 24, 2007, two mated and one unmated adult female Mediterranean fruit flies were taken from a trap in the Rolling Hills area of Los Angeles County. The detection of four adult Mediterranean fruit flies was indicative of an incipient infestation of the fly in these areas of Los Angeles County. As a result, the Department implemented an emergency amendment to Section 3406(b) which added approximately 57 square miles surrounding the Rancho Palo Verdes and Rolling Hills areas of Los Angeles County that was effective October 29, 2007. This regulation was amended as an emergency action November 6, 2007, adding another approximate two square miles of the Port of Los Angeles area (a total of approximately 59 square miles); November 27, 2007, expanding the regulated area by approximately 13 square miles (a total of approximately 72 square miles); December 10, 2007, expanding the regulated area by approximately 25 square miles (a total of approximately 97 square miles); and on January 11, 2008 (a total of approximately 103 square miles).

This amendment of Section 3406(b) removed this area of Los Angeles County from the area under quarantine for Mediterranean fruit fly. The fly was declared eradicated from this area on August 13, 2008; therefore, it was no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area effective August 13, 2008.

The quarantine areas included all detection sites as the epicenter and a buffer zone which extends approximately 4-1/2 miles in each direction from the epicenter. A buffer zone is necessary because the fly can spread naturally (as well as being spread artificially in

infested hosts). The proposed boundary line was drawn jointly by the local United States Department of Agriculture (USDA), the California Department of Food and Agriculture, and the Los Angeles County Agricultural Commissioner.

It was necessary to amend this regulation on an emergency basis to remove the quarantines on these areas and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Host crops were being harvested in these areas. If the restrictions were continued, growers and those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Therefore, it was necessary to amend this regulation to remove the regulated areas as emergency actions.

Because this fly is repeatedly introduced into California with many infestations requiring quarantine action, the Department proposes to retain the regulation text and insert the word "reserved" in subsection (b). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

#### Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because the agricultural

commissioners of Los Angeles, Santa Clara and Solano counties no longer have a duty to the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500)

of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

All of the businesses that were previously impacted by the restrictions of these quarantine restrictions are no longer impacted because the areas in which they are located are being removed from the regulation.

#### Assessment

The Department has made an assessment that the amendment to this regulation would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

#### Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3606(b):

Memo dated July 23, 2008, from Debby Tanouye to John Connell.

Memo dated July 30, 2008, from Debby Tanouye to John Connell.

Memo dated August 4, 2008, from Debby Tanouye to John Connell.